

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**CHARLES PATRICK BRENNAN
AND MARY BRENNAN,
INDIVIDUALLY, AND AS HEIRS
AT LAW TO THE ESTATE OF
COLBY PATRICK BRENNAN,
DECEASED,**

VS.

POWDER CITY, LLC.

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CA NO. 4:16-cv-03488

JOINT STATUS REPORT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE LYNN HUGHES:

Plaintiffs **CHARLES PATRICK BRENNAN AND MARY BRENNAN, INDIVIDUALLY, AND AS HEIRS AT LAW TO THE ESTATE OF COLBY PATRICK BRENNAN, DECEASED** and Defendant **POWDER CITY, LLC** (sometimes collectively referred to herein as the “parties”) now file their Joint Status Report pursuant to this Court’s February 21, 2017 Management Order.

1. On February 27, 2017, in accordance with the Management Order, Plaintiffs provided Powder City with the following information regarding decedent Colby Brennan: (a) demographic background; (b) education history; (c) chronology of employment; (d) information on all sports in which he had participated; (e) a specification of all of his medical treatment and doctors and healthcare providers; and (f) his hospitalizations.

2. On March 31, 2017, in accordance with the Management Order, Powder City provided Plaintiffs with (a) a one page summary of its business; (b) scientific data regarding Tianeptine -- 1 2013 article on Tianeptine; (c) the identity and date of deaths related to Tianeptine:

Colby Brennan and Donald Lee Porter; (d) records of Colby Brenna's Tianeptine from Powder City; and (e) a description of the Tianeptine drug packaging.

3. Beyond the information and records/documents which Powder City provided, Plaintiffs have requested the following additional records/documents to the extent possessed by Powder City:

- a. All records which show/reflect all information which Powder City had regarding Tianeptine before it began marketing and selling Tianeptine.
- b. All records which show/reflect all information which Powder City had regarding Tianeptine as of July 1, 2015.
- c. All records and correspondence pertaining to all consumer/customer complaints regarding Tianeptine.
- d. All records which evidence or relate to any quality control measures which Powder City took in regard to Tianeptine.
- e. All records which contain information which Powder City reviewed, considered and/or relied upon to any extent in regard to its decision to discontinue marketing and selling Tianeptine.
- f. All records regarding whether it was legal for Powder City to market and sell Tianeptine as of July, 2015.
- g. A summary of the regulatory scheme and/or a regulatory overview in regard to Tianeptine.
- h. Any/all notices/warnings or other communication from the FDA to Powder City LLC regarding Powder City's marketing and/or selling nootropics before July, 2015.
- i. all records and documents which show/identify all of the reasons which, in whole or in part, led to Powder City's decision to cease its business operations.

4. Powder City has several objections to producing the records/documents sought by Plaintiff's counsel, as listed below (corresponding to each item).

- a. All records which show/reflect all information which Powder City had regarding Tianeptine before it began marketing and selling Tianeptine.

Defendant does not object to this request, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- b. All records which show/reflect all information which Powder City had regarding Tianeptine as of July 1, 2015.

Defendant objects to this request on the basis that Plaintiff's request require Defendant to disclose customer information, including addresses, contact information and payment information, which is violative of privacy rights. Defendant agrees to produce all information it had in regard to marketing and selling Tianeptine as of July 1, 2015, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- c. All records and correspondence pertaining to all consumer/customer complaints regarding Tianeptine.

Defendant objects to this request on the basis that Plaintiff's request require Defendant to disclose documents and correspondence protected by attorney client and/or work product privileges. Defendant agrees to produce all non-protected records and correspondence in its possession, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- d. All records which evidence or relate to any quality control measures which Powder City took in regard to Tianeptine.

Defendant objects to this request on the basis that Plaintiff's request require Defendant to disclose documents and correspondence protected by attorney client and/or work product privileges. Defendant agrees to produce all non-protected records and correspondence in its possession, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- e. All records which contain information which Powder City reviewed, considered and/or relied upon to any extent in regard to its decision to discontinue marketing and selling Tianeptine.

Defendant objects to this request on the basis that it requests documents which are irrelevant to the lawsuit and hand, and are inadmissible at trial. Defendant also objects to this request on the

basis that it seeks production of documents protected by attorney client and/or work product privileges.

- f. All records regarding whether it was legal for Powder City to market and sell Tianeptine as of July, 2015.

Defendant does not object to this request, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- g. A summary of the regulatory scheme and/or a regulatory overview in regard to Tianeptine.

Defendant does not object to this request, and will respond within 14 days of the entry of the Court's order approving this discovery request. However, Defendant advises that there is no regulatory scheme or overview applicable to Tianeptine as it was sold and/or marketed by Powder City.

- h. Any/all notices/warnings or other communication from the FDA to Powder City LLC regarding Powder City's marketing and/or selling nootropics before July, 2015.

Defendant does not object to this request, and will respond within 14 days of the entry of the Court's order approving this discovery request.

- i. All records and documents which show/identify all of the reasons which, in whole or in part, led to Powder City's decision to cease its business operations.

Defendant objects to this request on the basis that it requests documents which are irrelevant to the lawsuit and hand, and are inadmissible at trial. Defendant also objects to this request on the basis that it seeks production of documents protected by attorney client and/or work product privileges.

5. In addition, the Plaintiffs have provided signed HIPAA medical authorization forms to Powder City's attorneys and Powder City is in the process of obtaining Colby Brennan's medical records via subpoena. Powder City will produce all records it has obtained by virtue of these authorizations upon receipt.

Respectfully submitted,

By: /s/ Steve E. Couch

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